

REGULATION 3

LICENSING: QUALIFICATIONS

- 3.010 Unsuitable locations.
- 3.012 Ownership of rights to operate or designate operators of gaming devices.
- 3.015 Applications for restricted licenses.
- 3.020 Ownership of premises where gaming conducted.
- 3.021 [Reserved.]
- 3.030 [Reserved.]
- 3.040 Time requirement.
- 3.050 Financial requirements.
- 3.060 Foreign gaming.
- 3.070 Multiple licensing criteria.
- 3.080 Unsuitable affiliates.
- 3.090 Standards for commission action.
- 3.093 Licensing of a natural person under the age of twenty-one.
- 3.095 Property report. [Repealed.]
- 3.100 Employee report.
- 3.110 Key employee.

3.010 Unsuitable locations. The board may recommend that an application for a state gaming license be denied, if the board deems that the place or location for which the license is sought is unsuitable for the conduct of gaming operations. The commission may deny an application for a state gaming license if the commission deems that the place or location for which the license is sought is unsuitable for the conduct of gaming operations.

Without limiting the generality of the foregoing, the following places or locations may be deemed unsuitable:

1. Premises located within the immediate vicinity of churches, schools and children's public playgrounds. The board may recommend and the commission may determine that premises located in the vicinity of churches, schools, and playgrounds are nevertheless suitable upon a sufficient showing of suitability by the applicant. In making their determinations, the board and commission may consider all relevant factors including but not limited to whether the premises have been used previously for licensed gaming or are located in a commercial area.

2. Premises located in a place where gaming is contrary to a valid zoning ordinance of any county or city. The board may recommend and the commission may determine that premises located where gaming is contrary to a valid zoning ordinance are nevertheless suitable upon a sufficient showing by the applicant that the premises have been used for licensed gaming prior to the effective date of the zoning ordinance and that there is good cause why the use should be allowed to continue.

3. Premises having a substantial minor clientele. The board may recommend and the commission may determine that premises having a substantial minor clientele are nevertheless suitable if the applicant demonstrates that it has taken sufficient precautions to separate areas frequented by minors from the gaming operation.

4. Premises lacking adequate supervision or surveillance.

5. Premises difficult to police.

6. Brothels.

7. Any other premises where the conduct of gaming would be inconsistent with the public policy of the State of Nevada.

(Amended: 10/90.)

3.012 Ownership of rights to operate or designate operators of gaming devices. As used in this section, "gaming rights" means the right, created by contract or otherwise, to operate gaming devices or to designate in any manner the operator of gaming devices at an establishment. "Gaming rights holder" means any person holding gaming rights who is not the operator of the primary business and is not otherwise licensed at the establishment or as an operator of a slot machine route.

1. The commission may require any gaming rights holder to apply for a finding of suitability pursuant to NRS 463.162(5)(a). Without limiting the board's ability to require a nonrestricted investigation in any case, a nonrestricted investigation shall generally be required of any gaming rights holder who holds gaming rights at three or more establishments at which restricted gaming is conducted.

2. An applicant for a restricted license shall furnish to the board complete information on any interest held by a gaming rights holder in the gaming establishment, copies of all agreements involving the gaming rights, and such other information as the board may require.

3. In considering any application by a gaming rights holder, the commission may apply the following criteria in determining whether approval of the application is in the best interests of the state:

(a) The total number of premises at which the applicant holds gaming rights and the total number of slot machines at such premises;

(b) The circumstances by which the gaming rights were acquired, the circumstances regarding the creation of such rights and the history of any transfer of such rights;

(c) The effect on competition and the ability of persons to obtain a license and conduct gaming on the premises of suitable locations for gaming establishments; and

(d) Such other criteria deemed by the board and commission to be relevant, including, but not limited to, any criteria provided in Regulation 3.070.

4. The applicant for a restricted gaming license at an establishment at which gaming rights are held by a gaming rights holder must demonstrate that the gaming devices will be adequately supervised.

5. Each licensee shall notify the board of any change in the ownership interests of gaming rights at any establishment where the licensee operates gaming devices at least 30 days before the change or, if the licensee is not a party to the transaction, immediately upon acquiring knowledge of the change.

6. Except in cases where the gaming rights holder is a publicly traded corporation, each licensee shall notify the board of any change in the ownership of the gaming rights holder at any establishment where the licensee operates gaming devices at least 30 days before the change or, if the licensee is not a party to the transaction, immediately upon acquiring knowledge of the change. If the gaming rights holder at the establishment where the licensee operates gaming devices is a publicly traded corporation, the licensee shall notify the board of any change in control of such publicly traded corporation as reported to the Securities and Exchange Commission, immediately upon acquiring such knowledge.

(Adopted: 2/94.)

3.015 Applications for restricted licenses.

1. An application for a restricted license may not be granted if the operation of slot machines is not incidental to the primary business conducted at the location.

2. In recommending and determining whether the applicant's proposed operation of slot machines is incidental to the primary business at a particular location, the board and commission may consider some or all of the following factors:

(a) The amount of floor space used for the slot machines as compared to the floor space used for the primary business;

(b) The amount of investment in the operation of the slot machines as compared to the amount of investment in the primary business;

(c) The amount of time required to manage or operate the slot machines as compared to the amount of time required to manage or operate the primary business;

(d) The revenue generated by the slot machines as compared to the revenue generated by the primary business;

(e) Whether a substantial portion of the financing for the creation of the business has been provided in exchange for the right to operate slot machines on the premises; and

(f) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business.

3. Except as provided by subsection 6, only the establishments listed below are suitable for the conduct of gaming pursuant to a restricted license:

(a) Bar, tavern, saloon or the like licensed to sell alcoholic beverages, other than just beer and wine, by the drink;

(b) Convenience store;

(c) Grocery store; and

(d) Drug store.

Unless the commission determines otherwise, the operation of slot machines at any of the establishments listed above is presumed to be incidental to the primary business, provided that no more than 7 slot machines are operated at a convenience store.

4. If the commission deems an application for a restricted license to be based on exceptional circumstances, the commission may waive subsection 3 upon a finding that the waiver is consistent with Regulation 3.010 and the public policy of the State of Nevada.

5. Subsection 3 shall not apply to any type of business approved by the commission as suitable for the operation of slot machines pursuant to subsection 6.

6. Any person may apply for a preliminary determination that a type of establishment not listed in subsection 3 is suitable for the conduct of gaming by filing an application with the board together with all applicable fees per Regulation 4.070. The application shall contain (a) a definition of the type of establishment and (b) a demonstration that the operation of slot machines in such a type of establishment is consistent with Regulation 3.010 and the public policy of the State of Nevada. The application shall be considered by the commission, upon recommendation by the board. Public comment shall be accepted when the application is heard by the board and commission.

7. Slot machines exposed for play in grocery stores and drug stores shall be located within a separate gaming area or alcove having not fewer than 3 sides formed by contiguous walls or partial walls. For the purposes of Regulation 3.015, "partial wall" or "wall" may include, without limitation, 1 or more gaming devices, if the gaming devices are configured together or in conjunction with other structures to create a barrier that is similar to a partial wall or wall.

8. In grocery stores or drug stores, automated teller machines shall not be placed within a designated gaming area or alcove and, at all other restricted locations, automated teller machines shall not be placed adjacent to slot machines.

9. Subsections 3 and 7 do not apply to an establishment for which a restricted license was granted by the commission by February 1, 2000, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased.

10. Nothing in this subsection shall be construed to limit or otherwise encumber the ability of any restricted gaming licensee to transfer, sell, or convey the business pursuant to the provisions of NRS chapter 463 and Regulation 8.

11. This regulation shall become effective on February 1, 2000.

(Adopted: 10/24/90. Amended: 7/99. Effective: 2/1/2000.)

3.020 Ownership of premises where gaming conducted.

1. The commission or the board may deem that premises are unsuitable for the conduct of gaming operations by reason of ownership of any interest whatsoever in such premises by a person who is unqualified or disqualified to hold a gaming license, regardless of the qualifications of the person who seeks or holds a license to operate gaming in or upon such premises.

2. In all cases in which the premises wherein or whereon the gaming operation for which a state gaming license is sought are not wholly owned by the applicant, the applicant shall furnish to the board a statement of the name and address of the owner or owners of such premises, a copy of all agreements whereby the applicant is entitled to possession of the premises, and such other information as the board may require.

3. In all cases in which the premises are wholly or partly owned by the applicant, the applicant shall furnish to the board complete information pertaining to the interest held by any person other than the applicant, including interest held under any mortgage, deed of trust, bonds or debentures, pledge of corporate stock, voting trust agreement, or other device whatever, together with such other information as the board may require.

4. Every licensee shall furnish to the board complete information pertaining to any change of ownership of the premises or of any change of any interest in the premises wherein or whereon the licensed gaming is operated at least 30 days before the date of such change; or, if the licensee is not a party to the transaction effecting such change of ownership, immediately upon acquiring knowledge of such change of ownership or any contemplated change of ownership.

(Amended: 1/82.)

3.021 [Reserved.] (11/82.)

3.030 [Reserved.] (11/82.)

3.040 Time requirement. No license will be issued for use in premises under construction until the calendar quarter in which gaming operations in such premises will actually be commenced.

3.050 Financial requirements.

1. No license will be issued for use in any establishment until satisfactory evidence is presented that there is adequate financing available to pay all current obligations and, in addition, to provide adequate working capital to finance opening of the establishment.

2. The commission may require a licensee to provide security for the payment of future wages, salaries or other obligations, either as a condition precedent to issuance or renewal of any license or at any other time the commission determines that such requirement would be in the public interest. The security required shall be in such form and amount as the commission may from time to time determine.

3.060 Foreign gaming. All approvals of the commission for involvement in foreign gaming granted pursuant to Regulation 3.060 prior to July 1, 1977, which were still in effect on that date shall remain valid until otherwise terminated.

(Amended: 3/73; 7/77.)

3.070 Multiple licensing criteria. In every instance in which a person, entity, or persons involved in an entity, holding a gaming license in the State of Nevada, including without limitation a license to operate an inter-casino linked system, makes application for an additional license, or a system pursuant to Regulation 14.030, the board and commission shall consider whether such multiple licensing is in the best interests of the State of Nevada, having due regard for the state's policy concerning gaming. In making this determination, the following are some factors which may be considered:

1. Has there been an adequate period of performance by the applicant upon which the board and commission could base a conclusion as to the effectiveness of the existing operations warranting further extension?

2. Does the applicant have sufficient key personnel to operate an additional location or inter-casino linked system so that multiple licensing would not result in dilution of effective managerial capacity and control of existing operations?

3. Has the applicant applied for an existing operation or inter-casino linked system or for a facility which is to be constructed or a new inter-casino linked system which is to be operated?

4. What are the plans of the applicant for the development and expansion of existing operations?

5. What are the plans of the applicant for a continuity of operation in the event of the death or disability of the applicant?

6. Does the applicant have ownership interests of any kind or nature in any of the competitor companies in the gaming industry?

7. What would the result of the multiple licensing be of the percentage of interest of the applicant to similarly situated competitors on a statewide, countywide and geographical location basis in each of the following categories:

(a) Total number of slot machines.

(b) Total number of games.

(c) Total number of tables.

(d) In case of an application for approval of a new inter-casino linked system, the total number of inter-casino linked systems and connected gaming devices or games.

(e) Gross revenue.

(f) Percentage tax.

(g) Casino entertainment tax.

(h) Number of rooms available for the public.

(i) Number of employees hired.

(j) Total payroll.

8. Would acquisition pose problems or create a monopoly?

9. Would acquisition pose problems in any of the following categories:

(a) Becoming so large as to become its own supplier of goods and services required by the licensee in all of its operations.

(b) Establishing employment practices inimical to the welfare of the gaming industry.

(c) Establishment of control in method of play or percentage realized from play that would be inimical to the welfare of the gaming industry.

(d) Without cause, the establishment of a seasonal operation or reduced number of shifts per day, inimical to the economy of the area.

10. Interlocking corporate directorships within licensed or unlicensed operations which might contribute to any of the foregoing factors.

11. Any other index or criteria deemed by the board and commission to be relevant to the effect of multiple licensing upon the public health, safety, morals, good order and general welfare of the public of the State of Nevada.

(Adopted: 11/68. Amended: 11/82; 5/00.)

3.080 Unsuitable affiliates. The commission may deny, revoke, suspend, limit, condition, or restrict any registration or finding of suitability or application therefor upon the same grounds as it

may take such action with respect to licenses, licensees and licensing; without exclusion of any other grounds. The commission may take such action on the grounds that the registrant or person found suitable is associated with, or controls, or is controlled by, or is under common control with, an unsuitable person.

(Adopted: 9/73.)

3.090 Standards for commission action.

1. No license, registration, finding of suitability, or approval shall be granted unless and until the applicant has satisfied the commission that the applicant:

- (a) Is a person of good character, honesty, and integrity;
- (b) Is a person whose background, reputation and associations will not result in adverse publicity for the State of Nevada and its gaming industry; and
- (c) Has adequate business competence and experience for the role or position for which application is made.

2. No license, registration, finding of suitability, or approval shall be granted unless and until the applicant has satisfied the commission that the proposed funding of the entire operation shall be (a) adequate for the nature of the proposed operation, and (b) from a suitable source. The suitability of the source of funds shall be determined by the standards enumerated in paragraph 1(a), (b) and (c) above.

(Adopted 10/75.)

3.093 Licensing of a natural person under the age of twenty-one. The board and commission will not ordinarily grant a state gaming license or finding of suitability to an individual under twenty-one years of age. This policy would not affect the licensing or finding of suitability of a trust where the settlor or beneficiary is under the age of twenty-one years.

(Adopted. 11/82.)

3.095 Property report. [Repealed: 7/92.]

3.100 Employee report.

1. On or before January 15 and July 15 of each year, each nonrestricted licensee, including each operator of a slot machine route or of an inter-casino linked system, and each pari-mutuel systems operator shall submit an employee report to the board. The report shall identify every individual who is, or who has been since the filing of the previous report, actively engaged in the administration or supervision of the operation as follows:

(a) Any individual who is compensated in any manner in excess of \$75,000 per annum or the ten highest compensated individuals, whichever method results in the greater number of employees. For purposes of this subsection compensation is the value of all salaries, bonuses, other taxable benefits and deferred compensation given to the employee;

(b) Any individual who may exercise discretionary authority with regard to gaming credit policy, which includes, but is not limited to those individuals who may:

- (1) Approve credit limits,
- (2) Approve the use of rim credit,
- (3) Approve an increase of 10 percent or \$1,000, whichever is greater, over a patron's previously established credit limit, or

(4) Recommend or approve the settlement or write-off of a credit instrument;

(c) Any individual who has the authority to hire or terminate supervisory casino personnel;

(d) Any individual who has the authority to supervise or direct a shift of each gaming or security activity, including but not limited to supervision or direction of the entire pit operation, keno games, bingo games, slot machines, race book, sports pool, pari-mutuel operations, and any persons having authority to supervise or direct such persons;

(e) Any individual who may authorize or provide complimentary benefits, which are normally provided by the licensee in exchange for compensation, other than food and beverage to a casino customer;

(f) Any individual having authority or the responsibility to manage one or more of the following types of departments or functions of the nonrestricted operation including, but not limited to: the accounting department, food and beverage department, cage department, credit and collections department, personnel department, internal audit department, security department, surveillance department, entertainment department and the sales and marketing department;

(g) Any individual who has the authority to set betting lines, point spreads or betting odds; who has the authority to authorize the voiding of betting tickets; or who has the authority to approve wagers larger than the posted limits established for the book;

(h) Any individual who may enter into a contractual arrangement, which is reportable pursuant to Regulation 8.130, on behalf of and binding upon the licensee;

(i) Any individual who has been specifically represented to the board, commission, or any other federal, state, or local government agency by a licensee, officer, or director thereof as being important or necessary to the operation of the gaming establishment;

(j) All persons who individually or as part of a group formulate management policy;

(k) Any job position or individual who, upon written notification by the board, is considered by the board to be a reportable position or employee for purposes of this regulation. Subsequent to notification the specific individual must appear on all subsequent employee reports, unless notified otherwise by the board or terminated by the licensee.

2. The employee report shall include the employee's name, job position title, social security number and a complete list of those categories described herein which apply to each employee.

3. The employee report shall be confidential and may not be disclosed except upon order of the commission or pursuant to the terms of NRS 463.120.

(Adopted: 7/76. Amended: 11/82; 9/91; 11/98; 5/00.)

3.110 Key employee.

1. Any executive, employee, or agent of a gaming licensee having the power to exercise a significant influence over decisions concerning any part of the operation of a gaming licensee or who is listed or should be listed in the annual employee report required by Regulation 3.100 is a key employee.

2. Whenever it is the judgment of at least 3 members of the commission that the public interest and the policies set forth in Nevada Revised Statutes Chapter 463, the Nevada Gaming Control Act, will be served by requiring any key employee to be licensed, the commission shall serve notice of such determination upon the licensee. The commission shall not be restricted by the title of the job performed but shall consider the functions and responsibilities of the person involved in making its decision as to key employee status. Grounds for requiring licensing of a key employee which are deemed to serve the public interest and the policies of the Nevada Gaming Control Act include but are not limited to the following:

(a) The key employee is new to the industry, to the particular gaming establishment, the position, or the level of influence or responsibility which he has and the board or commission has little or outdated information concerning his character, background, reputation, or associations, or

(b) Information has been received by the board or commission which, if true, would constitute grounds for a finding of unsuitability to be associated with a gaming enterprise.

3. The licensee shall, within 30 days following receipt of the notice of the commission's determination, present the application for licensing of the key employee to the board or provide documentary evidence that such key employee is no longer employed by the licensee. Failure of the licensee to respond as required by this section shall constitute grounds for disciplinary action.

4. Any individual whose application for licensing as a key employee as required pursuant to this regulation may request the commission in writing to review its determination of that individual's status within the gaming organization any time within 10 days following the filing of a completed application as required by this regulation. In the event the commission determines that the applicant is not a key employee or that the public interest and policies of the Nevada Gaming Control Act do not require the licensing of the key employee at this time, then the key employee applicant shall be allowed to withdraw his application and he may continue in his employment. In no event shall the request of the key employee applicant for review stay the obligation of the licensee to present the key employee's application within the 30-day period herein proscribed.

(Adopted: 7/76. Amended: 5/77.)

End – Regulation 3